

104TH CONGRESS
1ST SESSION

H. R. 530

To amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1995

Mr. GOODLING (for himself, Mr. McKEON, Mr. GUNDERSON, Mr. HOEKSTRA, Mr. BARRETT of Nebraska, Mr. GORDON, Mr. POMEROY, Mr. PETERSON of Florida, and Mr. STENHOLM) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities and, in addition, to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Student Loan Evaluation and Stabilization Act of 1995”.

1 (b) REFERENCES.—References in this Act to “the
2 Act” are references to the Higher Education Act of 1965
3 (20 U.S.C. 1001 et seq.).

4 **SEC. 2. FINDINGS.**

5 The Congress finds that:

6 (1) The current public/private student loan
7 partnership is fulfilling the mission set for it by
8 Congress, delivering loans to students reliably and in
9 a timely fashion, and should be preserved.

10 (2) The Administration’s dismantling of the
11 Federal Family Education Loan (FFEL) Program
12 which has begun in order to replace it with an
13 unproven direct Government lending program, which
14 increases the Federal debt, further enlarges the Fed-
15 eral bureaucracy, adds major new financial oversight
16 activities to the already overburdened Department of
17 Education, and forces Congress to depend on esti-
18 mated budget savings which may prove illusory,
19 needs to be stopped so that a true and valid com-
20 parison of the student loan programs can occur.

21 (3) The Federal Direct Student Loan (FDSL)
22 Program pilot is only now getting started and has
23 proceeded fairly smoothly when dealing with 5 per-
24 cent of new loan volume. This slow and cautious ap-
25 proach should be continued as the volume increases

1 to 40 percent. This pilot program should continue to
2 proceed slowly and cautiously and demonstrate suc-
3 cessful results before expanding it to additional loan
4 volume.

5 (4) While the FDSL Program pilot continues
6 its test phase, reform of the FFEL Program which
7 will benefit students and institutions of higher edu-
8 cation should be a continuing priority for the De-
9 partment of Education.

10 **SEC. 3. PARTICIPATION OF INSTITUTIONS AND ADMINIS-**
11 **TRATION OF DIRECT LOAN PROGRAMS.**

12 (a) LIMITATION ON PROPORTION OF LOANS MADE
13 UNDER DIRECT LOAN PROGRAM.—Section 453(a) of the
14 Act (20 U.S.C. 1087c(a)) is amended—

15 (1) by amending paragraph (2) to read as
16 follows:

17 “(2) DETERMINATION OF NUMBER OF AGREE-
18 MENTS.—In the exercise of the Secretary’s discre-
19 tion, the Secretary shall enter into agreements under
20 subsections (a) and (b) of section 454 with institu-
21 tions for participation in the programs under this
22 part, subject to the following:

23 “(A) for academic year 1994–1995, loans
24 made under this part shall represent 5 percent

1 of the new student loan volume for such year;
2 and

3 “(B) for academic year 1995–1996 and for
4 any succeeding fiscal year, loans made under
5 this part shall be limited to loans to students
6 and parents of students attending eligible insti-
7 tutions that have applied and been accepted for
8 participation in the program under this part on
9 or before December 31, 1994.”

10 (2) by striking paragraph (3); and

11 (3) by redesignating paragraph (4) as para-
12 graph (3).

13 (b) ELIMINATION OF CONSCRIPTION.—Section
14 453(b)(2) of such Act is amended—

15 (1) by striking subparagraph (B);

16 (2) by redesignating subparagraphs (A)(i) and
17 (A)(ii) as subparagraphs (A) and (B) respectively;
18 and

19 (3) in such subparagraph (B) (as so redesi-
20 gnated) by striking “clause (i); and” and inserting
21 “subparagraph (A).”.

22 (c) CONTROL OF ADMINISTRATIVE EXPENSES.—

23 (1) IN GENERAL.—Section 458(a) of the Act is
24 amended to read as follows:

1 “(a) IN GENERAL.—Each fiscal year, there shall be
2 available to the Secretary of Education from funds not
3 otherwise appropriated, funds to be obligated for adminis-
4 trative costs under this part, not to exceed (from such
5 funds not otherwise appropriated) \$260,000,000 in fiscal
6 year 1994, \$295,000,000 in fiscal year 1995,
7 \$395,000,000 in fiscal year 1996, \$400,000,000 in fiscal
8 year 1997, and \$400,000,000 in fiscal year 1998. Such
9 administrative costs shall include the costs of annually as-
10 sessing the program under this part and, subject to sub-
11 section (e) of this section, payment of an administrative
12 cost allowance for the expenses of guaranty agencies in
13 servicing outstanding loans in their portfolios and in guar-
14 anteeing new loans. If in any fiscal year the Secretary de-
15 termines that additional funds for administrative expenses
16 are needed, the Secretary is authorized to use funds avail-
17 able under this section for a subsequent fiscal year for
18 such expenses, except that the total expenditures by the
19 Secretary (from such funds not otherwise appropriated)
20 shall not exceed \$1,750,000,000 in fiscal years 1994
21 through 1998. The Secretary is also authorized to carry
22 over funds available under this section to a subsequent
23 fiscal year.”.

1 (2) IMPROVED CONGRESSIONAL OVERSIGHT OF
2 ADMINISTRATION.—Section 458 of the Act is further
3 amended—

4 (A) by redesignating subsection (d) as sub-
5 section (g); and

6 (B) by inserting after subsection (c) the
7 following new subsections:

8 “(d) FUNDING TRIGGERS.—For each fiscal year,
9 funds available under this section may be obligated only
10 in such amounts and according to such schedule as speci-
11 fied in the appropriations Act for the Department of Edu-
12 cation after submission by the Department of Education
13 of a detailed proposal of expenditures under this section.

14 “(e) ADMINISTRATIVE COST ALLOWANCE.—

15 “(1) CONDITIONS OF RECEIPT.—A guaranty
16 agency may not obtain an administrative cost allow-
17 ance from funds available under subsection (a) un-
18 less the guaranty agency has submitted an applica-
19 tion in accordance with section 428(f)(2). A guar-
20 anty agency that receives such an allowance may ex-
21 pend such allowance for the purposes described in
22 clauses (i) through (v) of section 428(f)(1)(A).

23 “(2) ELECTION OF PAYMENT RATE.—For each
24 fiscal year, at the time of its application for pay-
25 ments under section 428(f)(2), each guaranty agen-

1 cy shall elect to receive an administrative cost allow-
2 ance, payable quarterly, for the next fiscal year cal-
3 culated on the basis of either of the following:

4 “(A) 0.85 percent of the total principal
5 amount of the loans upon which insurance was
6 issued under part B during such fiscal year by
7 such guaranty agency; or

8 “(B) 0.08 percent of the original principal
9 amount of loans guaranteed by the guaranty
10 agency that was outstanding at the end of the
11 previous fiscal year.

12 “(3) RATABLE REDUCTION.—If the total
13 amount of funds to be expended by the Secretary for
14 purposes of paying the administrative cost allow-
15 ances to all guaranty agencies in accordance with
16 this provision exceeds \$150,000,000 for any fiscal
17 year, the Secretary shall ratably reduce such pay-
18 ments to all guaranty agencies.

19 “(f) QUARTERLY REPORT.—The Secretary shall pro-
20 vide a detailed quarterly report of all monies expended
21 under this section to the Chairman of the Committee on
22 Labor and Human Resources of the Senate and the Chair-
23 man of the Committee on Economic and Educational Op-
24 portunities of the House of Representatives. Such report
25 shall specifically identify all contracts entered into by the

1 Department for services supporting the loan programs
2 under parts B and D of this title and the current and
3 projected costs of such contracts.”.

4 (d) ELIMINATION OF TRANSITION TO DIRECT
5 LOANS.—The Act is further amended—

6 (1) in section 422(c)(7)—

7 (A) by striking “during the transition” and
8 all that follows through “part D of this title”
9 in subparagraph (A); and

10 (B) by striking “section 428(c)(10)(F)(v)”
11 in subparagraph (B) and inserting “section
12 428(c)(9)(F)(v)”;

13 (2) in section 428(c)(8)—

14 (A) by striking “(A)” after the paragraph
15 designation; and

16 (B) by striking subparagraph (B);

17 (3) in section 428(c)(9)(E)—

18 (A) by inserting “or” after the semicolon
19 at the end of clause (iv);

20 (B) by striking “; or” at the end of clause
21 (v) and inserting a period; and

22 (C) by striking clause (vi);

23 (4) in clause (vii) of section 428(c)(9)(F)—

24 (A) by inserting “and” before “to avoid
25 disruption”; and

1 (B) by striking “, and to ensure an orderly
2 transition” and all that follows through the end
3 of such clause and inserting a period;

4 (5) in section 428(c)(9)(K), by striking “the
5 progress of the transition from the loan programs
6 under this part to” and inserting “the integrity and
7 administration of”;

8 (6) in section 428(e)(1)(B)(ii), by striking
9 “during the transition” and all that follows through
10 “part D of this title”;

11 (7) in section 428(e)(3), by striking “of transi-
12 tion”;

13 (8) in section 428(j)(3)—

14 (A) by striking “DURING TRANSITION TO
15 DIRECT LENDING”; and

16 (B) by striking “during the transition”
17 and all that follows through “part D of this
18 title,” and inserting a comma;

19 (9) in section 453(c)(2), by striking “TRANSI-
20 TION” and inserting “INSTITUTIONAL”;

21 (10) in section 453(c)(3), by striking “AFTER
22 TRANSITION”; and

23 (11) in section 456(b)—

24 (A) by inserting “and” after the semicolon
25 at the end of paragraph (3);

1 (B) by striking paragraph (4);

2 (C) by redesignating paragraph (5) as
3 paragraph (4); and

4 (D) in such paragraph (4) (as redesign-
5 nated), by striking “successful operation” and
6 inserting “integrity and efficiency”.

7 **SEC. 4. ABILITY OF BORROWERS TO CONSOLIDATE UNDER**
8 **DIRECT AND GUARANTEED LOAN PROGRAMS.**

9 (a) ABILITY OF PART D BORROWERS TO OBTAIN
10 FEDERAL STAFFORD CONSOLIDATION LOANS.—Section
11 428C(a)(4) of the Act (20 U.S.C. 1078–3(a)(4)) is
12 amended—

13 (1) by striking “or” at the end of subparagraph
14 (B);

15 (2) by redesignating subparagraphs (C) and
16 (D) as subparagraphs (D) and (E); and

17 (3) by inserting after subparagraph (B) the fol-
18 lowing new subparagraph:

19 “(C) made under part D of this title;”.

20 (b) ABILITY OF PART B BORROWERS TO OBTAIN
21 FEDERAL DIRECT CONSOLIDATION LOANS.—Section
22 428C(b)(5) of such Act is amended to read as follows:

23 “(5) DIRECT CONSOLIDATION LOANS FOR BOR-
24 ROWERS IN SPECIFIED CIRCUMSTANCES.—

1 “(A) The Secretary may offer a borrower
2 a direct consolidation loan in the event that a
3 borrower otherwise eligible for a consolidation
4 loan pursuant to this section is—

5 “(i) unable to obtain a consolidation
6 loan from a lender with an agreement
7 under subsection (a)(1), or

8 “(ii)(I) evidences a substantial exist-
9 ing or projected difficulty in repaying loans
10 received under this part; and

11 “(II) desires a consolidation loan with
12 an income contingent repayment schedule
13 as offered to borrowers under part D of
14 this title.

15 “(B) The Secretary shall establish appro-
16 priate certification procedures to verify the eli-
17 gibility of borrowers for loans pursuant to this
18 paragraph.

19 “(C) The Secretary shall not offer such
20 consolidation loans if, in the Secretary’s judg-
21 ment, the Department of Education does not
22 have the necessary origination and servicing ar-
23 rangements in place for such loans, or the pro-
24 jected volume in the program would be desta-

1 bilizing to the availability of loans otherwise
2 available under this part.”.

3 **SEC. 5. RESERVE FUND PROGRAMS.**

4 (a) GUARANTY AGENCY RESERVE LEVELS.—Section
5 428(c)(9) of such Act (20 U.S.C. 1078(c)(9)) is
6 amended—

7 (1) in subparagraph (E)—

8 (A) by striking “The Secretary” and in-
9 serting “After notice and opportunity for a
10 hearing on the record, the Secretary”;

11 (B) by inserting “or” after the semicolon
12 at the end of clause (iv);

13 (C) by striking “; or” at the end of clause
14 (v) and inserting a period; and

15 (D) by striking clause (vi); and

16 (2) in subparagraph (F)—

17 (A) by inserting “dedicated to the func-
18 tions of the agency under the loan insurance
19 program under this part” after “assets of the
20 guaranty agency” in clause (vi); and

21 (B) in clause (vi), by inserting before “;
22 or” the following “, except that the Secretary
23 may not take any action to require the guar-
24 anty agency to provide to the Secretary the

1 unencumbered non-Federal portion of a reserve
2 fund (as defined in section 422(a)(2))”.

3 (b) ADDITIONAL AMENDMENTS.—Section 422 of
4 such Act is further amended—

5 (1) in the last sentence of subsection (a)(2), by
6 striking “Except as provided in section 428(c)(10)
7 (E) or (F), such” and inserting “Such”;

8 (2) in subsection (g), by striking paragraph (4)
9 and inserting the following:

10 “(4) DISPOSITION OF FUNDS RETURNED TO OR
11 RECOVERED BY THE SECRETARY.—Any funds that
12 are returned to or otherwise recovered by the Sec-
13 retary pursuant to this subsection shall be returned
14 to the Treasury of the United States for purposes of
15 reducing the Federal debt and shall be deposited
16 into the special account under section 3113(d) of
17 title 31, United States Code.”.

18 **SEC. 6. DEFAULT RATE LIMITATIONS ON DIRECT LEND-**
19 **ING.**

20 Section 455 of the Act is amended by adding at the
21 end the following new subsection:

22 “(k) TERMINATION OF INSTITUTIONS FOR HIGH DE-
23 FAULT RATES.—

24 “(1) METHODOLOGY AND CRITERIA.—After
25 consultation with institutions of higher education

1 and other members of the higher education commu-
2 nity, the Secretary shall develop—

3 “(A) a methodology for the calculation of
4 institutional default rates under the loan pro-
5 grams operated pursuant to this part;

6 “(B) criteria for the initiation of termi-
7 nation proceedings on basis of such default
8 rates; and

9 “(C) procedures for the conduct of such
10 termination proceedings.

11 “(2) COMPARABILITY TO PART B.—In develop-
12 ing the methodology, criteria, and procedures re-
13 quired by paragraph (1), the Secretary shall, to the
14 maximum extent possible, establish standards for
15 the termination of institutions from participation in
16 loan programs under this part that are comparable
17 to the standards established for the termination of
18 institutions from participation in the loan programs
19 under part B. Such procedures shall also include
20 provisions for the appeal of default rate calculations
21 based on deficiencies in the servicing of loans under
22 this part that are comparable to the provisions for
23 such appeals based on deficiencies in the servicing of
24 loans under part B.”.

1 **SEC. 7. APPLICATION FOR PART B LOANS USING FREE**
2 **FEDERAL APPLICATION.**

3 Section 483(a) of the Act (20 U.S.C. 1090(a)) is
4 amended—

5 (1) in paragraph (1)—

6 (A) by inserting “B,” after “assistance
7 under parts A,”;

8 (B) by striking “part A) and to determine
9 the need of a student for the purpose of part
10 B of this title” and inserting “part A.”; and

11 (C) by striking the last sentence and in-
12 serting the following: “Such form may be in an
13 electronic or any other format (subject to sec-
14 tion 485B) in order to facilitate use by borrow-
15 ers and institutions.”; and

16 (2) in paragraph (3), by striking “and States
17 shall receive,” and inserting “, any guaranty agency
18 authorized by any such institution, and States shall
19 receive, at their request and”.

20 **SEC. 8. CREDIT REFORM.**

21 (a) AMENDMENT.—Section 502(5)(B) of the Con-
22 gressional Budget Act (31 U.S.C. 661a(5)(B)) is amended
23 to read as follows:

24 “(B) The cost of a direct loan shall be the net
25 present value, at the time when the direct loan is

1 disbursed, of the following cash flows for the esti-
2 mated life of the loan:

3 “(i) Loan disbursements.

4 “(ii) Repayments of principal.

5 “(iii) Payments of interest and other
6 payments by or to the Government over the life
7 of the loan after adjusting for estimated de-
8 faults, prepayments, fees, penalties, and other
9 recoveries.

10 “(iv) In the case of a direct student loan
11 made pursuant to the program authorized
12 under part D of title IV of the Higher Edu-
13 cation Act of 1965, direct and indirect ex-
14 penses, including but not limited to the follow-
15 ing: expenses arising from credit policy and
16 oversight, activities related to credit extension,
17 loan origination, loan servicing, training, pro-
18 gram promotion and payments to contractors,
19 other Government entities, and program partici-
20 pants, collection of delinquent loans, and write-
21 off and close-out of loans.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) of this section shall apply to all fiscal years
24 beginning on or after October 1, 1995, and to statutory

1 changes made on or after the date of enactment of this
2 Act.

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HR 530 IH—2